

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Return Date: December 5, 2022
9:00 A.M.

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In re:

Chapter 11

Blitman Saratoga LLC,

Case No. 20-23177 (RDD)

Debtor.
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**DEBTOR'S RESPONSE TO THE LIMITED OBJECTIONS
FILED BY THE CREDITOR'S COMMITTEE, ESTATE OF
HOWARD BLITMAN AND THE CITY OF SARATOGA SPRINGS**

To the Honorable Sean H. Lane,
United States Bankruptcy Judge:

The Debtor herein, Blitman Saratoga, LLC (the "Debtor"), as and for its Response to the Limited Objections filed by the Official Committee of Unsecured Creditors, the estate of Howard Blitman and the City of Saratoga Springs (collectively, the "Objectors") to the Debtor's Motion (the "Motion") to approve the sale (the "Sale") of the completed home (Lot 14) at 57 Jane Street, Saratoga Springs, New York (the "Home") to Tom and Marlene Guiffre (the "Guiffre Family"), respectfully states as follows:

Overview

1. It appears that the Objectors are all in agreement that the sale of the Home for \$538,000 can and should proceed. Indeed, the Debtor's major challenge at this point is liquidity: the need to generate funds to resume construction on completing infrastructure and the four remaining homes under contract. Thus, the sale of the Home should be viewed as positive step forward that will help provide badly needed operating capital. The Debtor has obtained the agreement of the DIP Lender (Saratoga Funding LLC) to defer payment of its release prices under the pre-petition secured loan so that all net proceeds can be used to resume construction.

2. Once the sale is closed, the questions of the day then become (i) how much is expected to be generated by the Sale; and (ii) how will the net Sale proceeds be specifically used? The Debtor understands the inquiry and this Response is dedicated to answering these questions.

A. Projected Closing Statement

3. The Debtor projects that the Sale will generate net sale proceeds of \$509,525 (including the \$43,800 deposit) after payment of taxes, closing costs and reserve for brokerage. A draft closing statement reflecting the foregoing is annexed hereto as Exhibit "A".

4. The key to generating maximum liquidity is the DIP Lender's agreement to defer paydowns totaling \$283,985, as reflected on Exhibit "A". These monies are owed to the DIP Lender by virtue of the prior assignment of the pre-petition secured loans and mortgages held by Ballston Spa National Bank. Given the Debtor need for immediate cash, these funds are being dedicated to infrastructure.

5. The only party who could conceivably object to the deferment is the Estate of Howard Blitman, as represented by Ken Lewis, Esq. The Blitman Estate is a co-guarantor of the pre-petition secured debt and would like to see all of the Sale proceeds used to pay-down this debt, pointing to the structure of the original DIP Financing Orders.

6. However, market and business conditions have changed dramatically over the last year. At this point, infrastructure is a top priority and needs to be addressed in connection with this Sale. Hence, the deferment. There is also precedent in the case for deferring payments to the DIP Lender. This was done in connection with the sales of the properties at 47 Jane Street and 49 Jane Street, under which the Order approving the sales [*See*, ECF No. 108] authorized the Debtor to establish a Confirmation Fund of \$600,000 for Plan purposes, following negotiations with the Creditors' Committee. These funds remain in escrow and are still being dedicated for Plan

purposes. During the prior hearings, the Court characterized the deferral as a permitted modification of the DIP Financing Orders.

7. As similar modification should apply here. The Blitman Estate should prepare itself for a deficiency, since the project cannot possibly be completed without deferrals.

B. Updated Infrastructure Budget

8. The Debtor's representative, Tom Keaney, and the undersigned, are scheduled to meet with the City of Saratoga Springs during the week of December 5, 2022 to discuss a timeline and budget for completion of the infrastructure for all phases of the project (Sections I – VII), which relate to, inter alia, internal streets, street lights and water lines.

9. Annexed hereto as Exhibit "B" is a current budget for infrastructure. The Debtor is dedicating \$375,000 of the net Sale proceeds to perform highlighted work on Phase I, II (partial), III, IV and V. Following the meeting with the City of Saratoga Springs (and likely the Beaver Pond Village Homeowners Association), this work will proceed promptly.

10. The remaining balance of the net proceeds of about \$134,000 will be used for construction of the last four homes, with the goal of generating another closing. The Debtor will also make a big push to sell the dozen or so vacant lots in order to generate additional funds as well. In the interim, however, there can be no movement forward without approval of the Sale and maximization of the net proceeds for infrastructure and construction.

11. Howard Blitman was the original developer of the project prior to his replacement and subsequent death. The financial investors fault the Blitman family for all of the pre-petition delays in completing the project, which is the subject of state court litigation.

12. From the Debtor's perspective, this litigation will ultimately play itself out and should not impede the Sale or resumption of construction.

WHEREFORE, the Sale of 57 Jane Street should be approved with the net proceeds to be used as outlined above.

Dated: New York, New York
December 2, 2022

Goldberg Weprin Finkel Goldstein LLP
Attorneys for the Debtor
1501 Broadway, 22nd Floor
New York, New York 10036
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By: /s/ Kevin J. Nash

EXHIBIT A

SELLER'S DRAFT CLOSING STATEMENT

Mazzotta & Vagianelis, P.C.
9 Washington Square
r, New York 12205

SELLER: Blitman Saratoga LLC EIN# 45-4897437
PURCHASER: Thomas and Marlene Guiffre
PROPERTY: 57 Jane Street (LOT #14 Beaver Pond Village), City of Saratoga Springs
DATE: tbd

DUE TO SELLER:

Purchase Price:	\$ 538,000.00
Cost of Upgrades: (valued at \$56,463)	included above
ADJUSTED PURCHASE PRICE:	\$ 538,000.00
2022-2023 School Taxes (estimated - to be adjusted)	\$ 1,000.00
2022 City Taxes (estimated - to be adjusted)	\$ 500.00
Water Meter Installation	\$ 350.00
Survey Fee:	\$ 850.00
<u>TOTAL DUE TO SELLER:</u>	<u>\$ 540,700.00</u>

CREDITS DUE TO PURCHASER:

Deposit on Contract: \$43,800 held by M&V, P.C. (no bond)	\$ 43,800.00
Interest on Escrow Account (estimated - to be adjusted)	\$ 50.00
	<u>\$ (43,850.00)</u>
<u>ADJUSTED BALANCE:</u>	<u>\$ 496,850.00</u>

Expenses of Seller to be Paid by Purchaser

(1) Saratoga County - Release of 57 Jane Collateral / Saratoga Funding:		
Release of Mortgage	\$ 55.00	
UCC-3	\$ 40.00	\$ 95.00
(2) NYSDOS - Release of 57 Jane Collateral / Saratoga Funding:		
NYSDOS - UCC3 (Lot release)	\$ 40.00	
NYSDOS - UCC3 (LOC Lot Release)	\$ 40.00	\$ 80.00
(3) Real Estate Commissions (based on Original Purchase Price - \$438,000)		
(KW Commission, \$10,950, Julie and Co. \$10,950)		\$ 21,900.00
(4) Attorney Fee: Mazzotta & Vaianelis, PC (est.)		\$ 1,550.00
(5a) Mortgage Release Fee Saratoga Funding LLC	\$ 88,235.00 *	
(5b) Line of Credit Paydown due to Saratoga Funding LLC	\$ 195,750.00 *	
(6) Commissioner of Finance, City of Saratoga Springs		
City Tax (est)		\$ 3,000.00
(7) Commissioner of Finance, City of Saratoga Springs		
School Tax (est)		<u>\$ 4,500.00</u>
		\$ 31,125.00

* note - to be dedicated for infrastructure - Letter of Credit completion

NET DUE TO SELLER AT CLOSING :

	<u>\$ 465,725.00</u>
Deposit on Contract: \$43,800 held by M&V, P.C. (no bond)	<u>\$ 43,800.00</u>
	<u>\$ 509,525.00</u>

EXHIBIT B

